

APPROVED: Meeting No. 30-93

ATTEST: *Paula Jewell*

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
Meeting No. 29-93

August 2, 1993

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland, on August 2, 1993, at 7:30 p.m.

PRESENT

Mayor Pro Tem Rose G. Krasnow

Councilmember James F. Coyle

Councilmember David Robbins

In attendance: City Manager Bruce Romer, City Clerk Paula Jewell and Assistant City Attorney Sondra Block.

ABSENT

Mayor Douglas M. Duncan

Councilmember James T. Marrinan

Upon motion of Councilmember Coyle, duly seconded and unanimously approved, Councilmember Krasnow was duly appointed to serve as Mayor Pro Tem.

Re: City Manager's Report

1. A new program showing on Cable Channel 53 entitled "Connecting" is a version of the video that staff had put together about the City's recreation and parks program that had allowed the City to achieve gold medal award designation. Mr. Romer said the video was so outstanding, it was worthy of showing it on Cable 53 along with excerpts of the Hometown Holidays program.

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2. The Mayor and Council had expressed an interest in what the community could do to assist flood victims in the midwest. Staff has been working on an idea with the City of Gaithersburg who had expressed a similar interest. Realizing that there was a real benefit for doing a joint area-wide effort, arrangements were made to work with Gaithersburg on a localized collection of cleaning supplies and cash donations for the victims of the flood. A press conference was scheduled for August 6 at the Home Depot Store to announce the relief effort.

3. Mr. Romer noted the contract award for the City's wetland responsibilities was before the Mayor and Council as Consent Agenda Item A. He said the alternative being proposed for the Patuxent watershed clearly involved the creation of 6.1 acres of contiguous wetlands elsewhere than the Cabin John watershed area. Mr. Romer said it was dangerous to try to create wetlands in small areas, and the contract represented an ability to create larger wetlands for a higher degree of success in a larger area. The City would be informing the interested individuals that the Hungerford/Stoneridge pool property would not now be used for the project; however it still remained a valuable asset and resource for the City and had continuing environmental value to the City. Mr. Romer noted that in approving the contract, the project was being done with the notion of getting the contractor started, but would also be subject to notification of the interested parties.

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4. Consent Agenda Items E,F, G were regarding approvals of consents, leases, and lease extensions that were all related to the downtown revitalization project. Mr. Romer said the items were all routine and represented the continuing revolution of the downtown project and followed the signing of the agreement and the continuous effort of RCI to make good on the contract with WRIT. Mr. Romer said the agenda items would also solve a number of outstanding property issues and would dismiss the litigation between the City and WRIT. Mr. Romer commented that Consent Agenda Item G represented a resolution between RCI and Montgomery Cablevision on another issue that needed to be resolved in order for the downtown project to continue.

5. The space in the Mall, previously occupied by the Technical Education Center has now been vacated.

Re: Presentation of four finalists' proposals for Elwood Smith Park artwork and award to Deirdre Saunder for her "Ceramic Tile Snake" in the amount of \$15,000.

Councilmember Robbins stated his concern that the entire Mayor and Council was not present for this presentation but he suggested that the presentation take place this evening, and the Council defer approval of any funds for the project, until the entire Council had a chance to discuss why a moratorium was imposed on the art in public places project so they could determine

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if the same factors existed for continuing the moratorium and make a decision on what the policy would be for continuing support for the program.

Responding to a question from Councilmember Coyle, Cultural Arts Commission Chairperson, George Northway explained that if a decision was not made this evening, installation of the art work would probably have to wait until Spring. He also said that funds were already approved for the project from FY92 money before the moratorium was imposed.

Mayor Pro Tem Krasnow recommended that the Mayor and Council proceed with the presentation.

Art Consultant Francois Yohalem explained each of the art proposals. The four finalists were selected from among 83 interested artists for this Arts In Public Places neighborhood project. The award to Ms. Saunder was recommended by the artist nomination committee as well as the Cultural Arts Commission; fifteen Thousand (\$15,000) is budgeted in the Art in Public Places Program of the CIP.

Mr. Northway stated that the artist nomination committee and the CAC were unanimous in recommending the Ceramic Tile Snake. He said it was the most site specific, fit the building perfectly and enhanced a building that was not very attractive. Mr. Northway also said the project satisfied his own criteria that the CAC obtain a variety of art work in the City that stimulated a lot of interest, both negative and positive, and also invoke a lot of discussion.

Councilmember Robbins said the artwork had height and he expressed concern that it could be a problem on playgrounds. He commented that the broader discussion was needed on

the public arts program and the Mayor and Council needed to review where the public arts program was headed and also whether the factors for the moratorium had changed significantly.

Councilmember Coyle said he was concerned about what reaction would be if the Mayor and Council did not act this evening. Mr. Northway explained that it was not crucial that the project start in the fall.

Councilmember Robbins questioned if FY92 money earmarked for the project could be used for any other project. Mr. Romer responded that once money was allocated for a particular project, it was not used for anything else.

Commissioner Ken Lechter said he recalled from the worksession in which the moratorium was discussed, that part of the consideration for the new 6 year Master Plan and the Mayor and Council's adoption of that Master Plan was the CAC's recommendation that there be a moratorium for fiscal concerns and to defer expenditure of funds until the Town Center project was underway.

Mayor Pro Tem Krasnow commented that there were many people who react negatively to snakes; she expressed concern about putting art work in a public park that might keep people away. Mr. Northway noted that no one on the CAC or arts nomination committee mentioned this as a concern.

Mayor Pro Tem Krasnow recommended that the Mayor and Council wait until the Council's September meeting to take action. She asked that staff provide back-up material from the worksession in which the moratorium was discussed.

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Councilmember Robbins asked that there be a presentation on where the art in public places program was headed. He said he also shared Ms. Krasnow's concern regarding the snake.

Councilmember Coyle commented that the design was very bright and attractive which was a nice feature since Elwood Smith Park was in an area that did not get a lot of sun. The Mayor Pro Tem and Council expressed appreciation to the CAC and the artist nomination committee for their work.

Re: Citizens Forum - Time is set aside to hear from any citizen who wished to address the Mayor and Council.

1. Sandra Crewe, Executive Director, Rockville Housing Authority (RHA)

announced that on July 31st, the RHA took second place at its third annual track and field event. Ms. Crewe then reported on the plans to develop an overall strategy for affordable housing in Rockville that RHA was currently working on and said that a report should be expected within the next few months. Ms. Crewe referenced Consent Agenda Item D that authorized a fourth amendment to the Cooperation Agreement with RHA, and said that the amendment would allow RHA the flexibility to respond to housing units on the market and would allow RHA to continue to provide affordable housing.

Councilmember Coyle said he was pleased to hear about the plans; however he expressed concern that the increase from 200 to 300 units for RHA's authority to develop and operate low rent housing, was a big step. Mr. Coyle said there was no doubt the City could

handle the increase; but long term issues needed to be looked at because of the RHA's limited funds for managing units. Mr. Coyle also said he would feel more comfortable approving 250 units and then holding discussions on the housing plan to determine what the best number was for the RHA. Ms. Crewe said that 250 units would satisfy the RHA's immediate need; she explained that they had recommended 300 so they would not have to come to the Mayor and Council each time with requests for increments of 50 units. Ms. Crewe said she was confident that the leadership would be able to go forward with the proper management of the units. She also cited a new housing act that contained a provision for a ceiling rent to be in place so that when families reached certain income levels they would not have to be forced out. Ms. Crewe said that these elements would work together to increase the revenue provided by the units.

Mayor Pro Tem Krasnow asked whether the additional units created additional work and asked if staff was available to handle additional workloads. Ms. Crewe responded that the units would create additional revenue that would help hire additional administrative and social work staff.

Councilmember Coyle said he was interested in seeing the housing plan, and he commented that he did not know what the City's legal obligations were in the long run by taking on additional housing units.

2. Bill Meyer, 804 Leverton Road spoke in support of Consent Agenda Item A and said he was glad to see action being taken to protect the mitigation of Wootton Parkway. Regarding Agenda Item #7, Mr. Meyer said that he understood approval of a waiver for on-site

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SWM was for 7.78 acres, and he wanted to make sure the developer would be required to provide on site quantity control.

Re: Adoption of Minutes

Mayor Pro Tem Krasnow noted that the action the Mayor and Council took on the acceptance of the Offer of Agreement was missing from page 9, and she requested that the minutes be amended to reflect that action. Upon motion of Councilmember Robbins, duly seconded and unanimously passed, the minutes of Meeting No. 28-93 (July 26, 1993), were approved as amended.

Re: Consent Agenda

Councilmember Coyle requested removal of Items A and D; Mayor Pro Tem Krasnow requested the removal of Item B. Upon motion of Councilmember Robbins, duly seconded and unanimously passed, the following Consent Agenda items were approved.

- (C) Award of Bid 10-94 for Annual Concrete Maintenance Program and related construction to Buenos Aires Construction of Brentwood, Maryland for the low bid of \$351,445.00.

This program includes installation of new driveway aprons, water and sewer related street repairs, roadway spot improvements, and repairs at Wootton Parkway Pedestrian Bridge (Lakewood School).



- (E) Approval of Third Amendment to Arcade Parking Agreement between Washington Real Estate Investment Trust (WRIT) and Rockville Center, Inc. (RCI).

WRIT and RCI have agreed to a new parking relationship involving One Metro Square (51 Monroe Street) and Rockville Metro Center (250 Hungerford Drive). The agreement requires the consent of the City.

- (F) Approval of mutual release between the City and Washington Real Estate Investment Trust (WRIT).

This mutual release is in conjunction with the Third Amendment to Arcade Parking Agreement and releases both parties from any obligations to each other.

- (G) Approval of lease extension between Montgomery County Cablevision and Rockville Center, Inc.

This lease, which covers headend equipment in Phase I of Rockville Metro Center was originally signed by the City.

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Re: Item (A)

- (A) Award of Bid 94-93 for the design, construction and land acquisition for 6.1 acres of wetlands to FAWCA, Inc., of Derwood, Maryland for the low bid amount of \$278,140, to satisfy regulatory requirements resulting from the construction of Wootton Parkway.

Councilmember Coyle questioned why the Patuxent watershed site was selected.

Mr. Romer responded that the action represented a welcome evolution in thinking on the part of regulatory agencies. He said it was impossible to find 6.1 acres of contiguous land for wetlands in Rockville and the Patuxent watershed site was larger and in greater environmental need than the Cabin John area.

Mayor Pro Tem Krasnow asked who would have the actual easement; she also questioned whether there could be any problems since the land was located far outside the City boundaries. Civil Engineer Jeannette Fearon responded that it would be recorded that the easement would go to the City of Rockville. Ms. Fearon also said that staff would be installing best management practices that were approved by the Soil Conservation Service for farming and she did not foresee any problems.

Mayor Pro Tem Krasnow asked what the process would be when the City started looking for sites within the City in the future. Mr. Romer responded that each project would have to be taken on its own merits; he said the City had made a lot of progress and had learned how to

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save for some resources in the future; he noted that this action would not prejudice any future projects.

Upon motion of Councilmember Robbins, duly seconded and unanimously passed, the bid award to FAWCA, Inc. was approved.

Re: Item B

(B) Award of RFP 8-94 for four existing Water Structure Engineering Evaluation and Inspection Services to:

(1) for Engineering Evaluation Services to C/P Utility Co. of Connecticut for \$14,150 and (2) for Inspection Services to Tank Industry Consultant, Inc. of Maryland for \$26,500.

Mayor Pro Tem Krasnow asked that Item B be removed because she said she was not sure what the City was approving nor was she certain what was being done in the engineering analysis phase. Public Works Deputy Director, Gerry Morningstar, explained that the inspection phase was actually the coating process and the engineering phase was an evaluation of the coatings on the tanks for lead.

Upon motion of Ms. Krasnow, duly seconded and unanimously passed, the award of RFP 8-94 was approved.

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Re: Item D

(D) Authorization for the City Manager to execute the fourth amendment to the Cooperation Agreement with the Rockville Housing Authority.

The amendment will increase the RHA's authority to develop and operate low rent housing from 200 units to 300 units.

Councilmember Coyle commented on the great work the RHA was doing and he urged the Mayor and Council to look at a longer range plan. Mr. Coyle moved that the number of low rent housing units be reduced from 300 to 250; the motion was duly seconded and unanimously carried. Upon motion of Councilmember Coyle, duly seconded and unanimously passed, the authorization for the City Manager to execute the fourth amendment to the Cooperation Agreement with RHA was approved.

Re: Approval of waiver for on-site SWM for a 6.75 acre lot near the intersection of Rockville Pike and Halpine Road in the Cabin John drainage area; and the acceptance of \$30,800 for the off-site SWM fund.

The runoff from this site is conveyed to the proposed Montrose Park SWM facility (Waiver category: II-A-4,5).

Upon motion of Councilmember Robbins, duly seconded and unanimously passed, the waiver for on-site SWM for a 6.75 acre lot near the intersection of Rockville Pike and Halpine Road in the Cabin John drainage area; and the acceptance of \$30,800 for the off-site SWM fund was approved.

Re: Progress Report on solid waste disposal program.

Last week, the City's Solid Waste Disposal Task Force reported on its seven-month study to determine a long-term solid waste disposal solution. The Task Force reported on its receipt of proposals from potential suppliers for solid waste disposal services. The goal is to identify a disposal solution which is environmentally sound, cost-effective, and would meet or exceed all standards for the disposal of municipal solid waste.

Mr. Romer reported that a lot of work was ongoing; staff picked up on the Mayor and Council's directions from the July 26 meeting, and the Assistant City Manager and Stormwater Taskforce were putting together responses to the issues and questions raised and would report back to the Mayor and Council in early September. Mr. Romer said also noted that the Taskforce was conducting informational meetings to talk about the project with neighbors in the area of Public Works and interested citizens, and had received a number of positive comments.

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In response to a question from Councilmember Coyle, Mr. Romer noted that there had been no official feedback from Montgomery County; he said the City's dialogue with the County was ongoing but there were no specific meetings planned with the County.

Mayor Pro Tem Krasnow asked for assurance from staff that an article on the solid waste proposal would appear in Rockville Reports; Mr. Romer confirmed that this was taking place, and he noted that the Taskforce was also preparing letters to all civic associations and neighbors.

Re: Discussion and Instructions to staff regarding Text Amendment Application T-134-93, Paul D. Haines, Applicant.

Amendment to the Zoning Ordinance so as to allow covered steps, stoops and porches to encroach up to four feet into minimum side setback space.

Mr. Romer noted that Text Amendment Application T-134-93 came before the Mayor and Council for public hearing on July 19. Staff had recommended approval of the application and the Planning Commission had recommended denial. Mr. Romer said the Petitioner had appeared at the public hearing and spoke on behalf of the text amendment.

Chief of Planning, Larry Owens, said the new encroachment was limited to steps, stoops and porches that were no more than 8 feet wide. He also said the special exception process still prevailed if there was an accessory apartment involved. Mr. Owens stated that there were two additional items that staff had suggested in its report: a further qualification that the steps be

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covered but not enclosed to diminish any further bulk from encroaching into neighboring areas; and a suggestion, which was not advertised since the Planning Commission did not recommend it, to make some complimentary adjustments to front setbacks for some other encroachments.

Councilmember Coyle recommended that an amendment be made to the language that would preclude enclosing a structure at a later date to allow covered but not enclosed steps to encroach up to four feet into the minimum side set back. The motion to amend the language was duly seconded and unanimously passed.

Re: FYI/Correspondence

Councilmember Robbins referred to Item 2 and commented on the success of the Explorers Program; he asked for an update on how the program was working and the types of projects the Explorers were involved in.

Councilmember Coyle commented on Item 4 and said that the pilot project to stencil "Chesapeake Bay Drainage" artwork and signs on various City storm drains was a clever proposal; it would give everyone an idea of what was being envisioned and raise the awareness of area residents.

Re: New Business

1. Mayor Pro Tem Krasnow commented that the Washington Post article distributed this evening regarding the razing and starting over of the Rockville Mall expressed very favorable support for the project.

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2. Mayor Pro Tem Krasnow noted that the City was participating in National Night out on August 3.

3. Mayor Pro Tem Krasnow asked whether the Technical Education Center had purchased a new building yet and she asked that staff look into the matter.

Re: Next Meeting

1. September 13, 1993 General Session. There will be a further report on the solid waste disposal project; the return of some anticipated annexations, the return of the art in public places issue, and possibly the Tower Oaks Concept Plan may be ready in time for the September 13 meeting.

Re: Adjournment

There being no further business to come before the Mayor and Council, the meeting was adjourned at 8:58 p.m., to convene again in General Session at 7:30 p.m. on September 13, 1993, or at the call of the Mayor.